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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

LEONARD P. HELM,

Defendant and Appellant.

A120415

(San Francisco County Super.  
Ct. Nos. 179734, 189700)

Defendant Leonard P. Helm appeals the trial court's denial of his petition for writ of error *coram nobis*. His counsel has filed an opening brief raising no issues and asking this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant has been apprised of his right to file a supplemental brief, but he has not done so.

Defendant was charged by information with a variety of offenses against four girls, including unlawful sexual intercourse (Pen. Code,<sup>1</sup> § 261.5, subd. (d)), sexual battery (§ 243.4, former subd. (d)(1); Stats. 1997, ch. 821, § 2, pp. 5696-5697), lewd acts on a child (§ 288, subd. (c)(1)), furnishing marijuana to a minor (Health & Saf. Code, § 11361, subd. (b)), child molestation (§ 647.6), and battery (§ 242). (*People v. Helm* (Super. Ct. S.F. City and County, 2004, No. 189700) (*Helm II*).) In a separate case, he was charged with inflicting corporal injury on a spouse or cohabitant (§ 273.5, subd. (a)),

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<sup>1</sup> All undesignated statutory references are to the Penal Code.

assault with a deadly weapon (§ 245, subd. (a)(1)), and making criminal threats (§ 422). (*People v. Helm* (Super. Ct. S.F. City and County, 2004, No. 179734) (*Helm I*.)

On March 10, 2004, defendant pled guilty in *Helm II* to lewd acts on a child (§ 288, subd. (c)(1)), and in *Helm I* to inflicting corporal injury on a spouse or cohabitant (§ 273, subd. (a)). Before defendant entered his plea, his counsel announced that the proposed disposition was three years in state prison “and a 290 registration.”<sup>2</sup> During the hearing in which defendant made his plea, neither his counsel nor the court mentioned the lifetime nature of the registration requirement.

Through new counsel, defendant moved to withdraw his guilty plea on April 30, 2004. One of the grounds for the motion was the contention that when he made his plea, he was not aware that he would have to register as a sex offender for the rest of his life and the trial court had not so advised him. The trial court denied the motion, concluding defendant had been “properly advised within the requirements of law.”

In June 2004, the trial court sentenced defendant to concurrent terms of two years in *Helm I* and three years in *Helm II*, and required him to register as a sex offender pursuant to section 290. The remaining charges were dismissed.

In 2007, Division Five of the First Appellate District held that before taking a plea of guilty or no contest to an offense that carries a sex offender registration requirement, the trial court must advise the defendant of the lifetime nature of the requirement. (*People v. Zaidi* (2007) 147 Cal.App.4th 1470, 1481 (*Zaidi*).)

Defendant thereafter petitioned the trial court for a writ of error *coram nobis*, asserting that he had not been advised that lifetime sex offender registration would be a consequence of the plea and that in light of *Zaidi*, his plea was therefore not knowing, voluntary, or intelligent. The trial court denied the petition, reasoning that *coram nobis* lies to give relief from errors of fact, not errors of law, and that the failure to advise defendant about the consequences of his plea was legal error. Defendant appealed from this order.

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<sup>2</sup> Section 290 requires specified sex offenders to register with law enforcement officials for the rest of their lives.

Our Supreme Court has explained that the writ of error *coram nobis* has a narrow scope, and is “ ‘granted only when three requirements are met. (1) Petitioner must “show that some fact existed which, without any fault or negligence on his part, was not presented to the court at the trial on the merits, and which if presented would have prevented the rendition of the judgment.” [Citations.] (2) Petitioner must also show that the “newly discovered evidence . . . [does not go] to the merits of the issues tried” . . . . (3) Petitioner “must show that the facts upon which he relies were not known to him and could not in the exercise of due diligence have been discovered by him at any time substantially earlier than the time of his motion for the writ. . . .” ’ ” (*People v. Kim* (2009) 45 Cal.4th 1078, 1093.) This remedy lies to correct only errors of fact, not errors of law, and “ ‘is not available where a defendant voluntarily and with knowledge of the facts pleaded guilty or admitted alleged prior convictions because of ignorance or mistake as to the legal effect of those facts.’ ” (*Ibid.*) New facts that can support the issuance of a writ of error *coram nobis* include such things as the litigant’s minority or insanity, or the fact that the litigant was never properly served. However, the court concluded in *Kim* that the defendant’s mistake as to the immigration consequences of his guilty plea spoke merely to the legal effect of the plea, and was not a ground for relief on *coram nobis*. (*Id.* at p. 1102.)

Similarly here, defendant’s alleged mistake as to the registration requirements of his guilty plea speaks merely to the legal effects of the plea. He has alleged no new facts that would support a petition for writ of error *coram nobis*. The trial court correctly denied the petition.

There are no meritorious issues to be argued.

**DISPOSITION**

The order appealed from is affirmed.

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RIVERA, J.

We concur:

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REARDON, Acting P.J.

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SEPULVEDA, J.